

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

JAMES EDWARD BASSHAM
Plaintiff,

v.

REUBEN HODGE, et al.
Defendants.

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No. 1:11-0013
Judge Trauger

O R D E R

The Court has before it a Motion to Dismiss (Docket Entry No. 65) filed by the defendants Reuben Hodge, Gayle Ray, Donna White, Lester Lewis and Carolyn Jordan, a Report and Recommendation (Docket Entry No.124) from the Magistrate Judge in which she urges the Court to grant the defendants' Motion to Dismiss, and the plaintiff's timely objections (Docket Entry No.138) to the Report and Recommendation.

The plaintiff's claims arose from his confinement at the South Central Correctional Center. More specifically, the plaintiff claims that he was denied adequate medical care for an injured knee and that his grievances complaining about the lack of medical care were not properly addressed by the defendants.

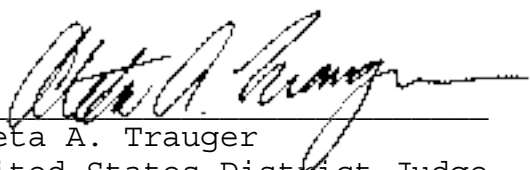
The Magistrate Judge correctly concluded that the plaintiff could not sue these defendants in their official capacities because they are state employees and, as such, are shielded by the Eleventh

Amendment. Kentucky v. Graham, 473 U.S. 159,169 (1985). Likewise, these defendants are not individually liable. Gayle Ray, Donna White and Lester Lewis can not be held liable in a § 1983 action based on a respondeat superior theory of liability. Phillips v. Roane County, 534 F.3d 531, 543 (6th Cir.2008). Nor can Reuben Hodge be held liable for simply failing to follow grievance procedures, Black v. Parke, 4 F.3d 442,448 (6th Cir.1993), or Carolyn Jordan for approving of the plaintiff's transfer to his present place of confinement.

The Magistrate Judge, however, went beyond the Motion to Dismiss and has recommended that the claims against Cherry Lindamood, Chastity Carper and Jessica Garrett also be dismissed. The only claim against these defendants is that they failed to follow grievance procedures. As noted above, such conduct, even if true, does not rise to the level of a constitutional violation.

The Court has reviewed these pleadings and the record *de novo* and finds that the plaintiff's objections lack merit. Therefore, the plaintiff's objections are OVERRULED. The Report and Recommendation is ADOPTED AND APPROVED in all respects.

It is so ORDERED.



Aleta A. Trauger
United States District Judge